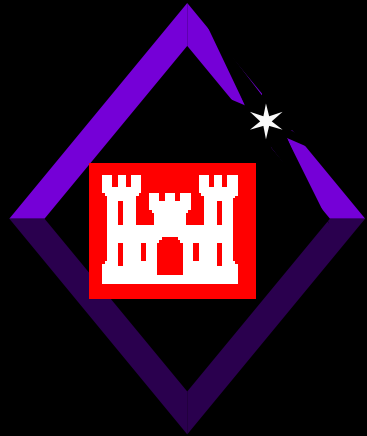


# **USACE LEGAL SERVICES WORKSHOP**

**DOUG LAMONT**

**POLICY REVIEW BRANCH**

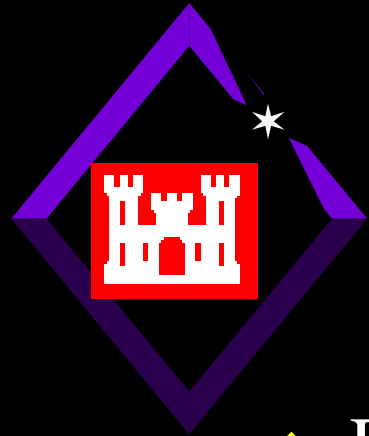


# HQUSACE PCA REVIEW

## Approved Models

### (Continuing Authority Program)

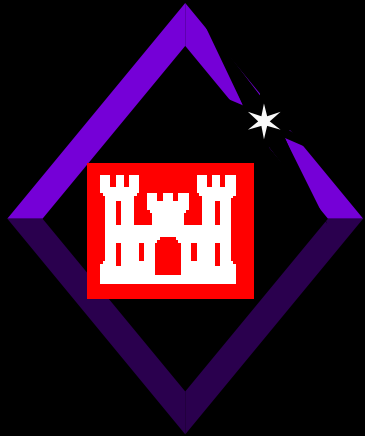
- |  |        |
|--|--------|
| ◆ Section 14                                     | Aug 94 |
| ◆ Section 205<br>(structural & non-structural)   | Aug 94 |
| ◆ Section 208                                    | Aug 94 |
| ◆ Section 204<br>(ecosystem restoration)         | Apr 95 |
| ◆ Section 206<br>(aquatic ecosystem restoration) | Feb 98 |
| ◆ Section 1135                                   | Feb 98 |



# HQUSACE PCA REVIEW

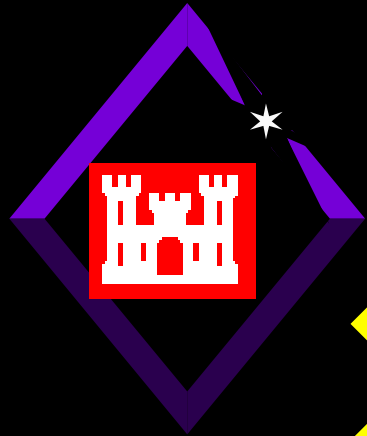
## Approved Models (Specifically Authorized Projects)

- ◆ Flood Control
- ◆ Commercial Navigation
- ◆ PED Agreements
- ◆ FCSA
- ◆ Sections 304, 307, 313, 101, etc. (environmental infrastructure)
- ◆ See Office of Counsel Home Page for latest version



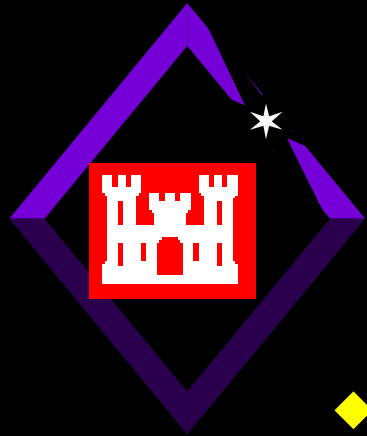
## Models Under Development

- ◆ Design Agreements Summer 98
- ◆ Commercial Navigation Summer 98  
(specifically authorized)
- ◆ Commercial Navigation Summer 98  
(Section 107)



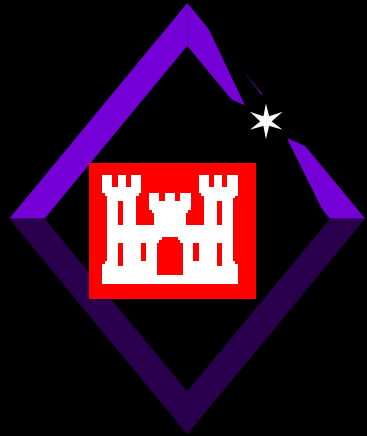
## Delegated Authority

- ◆ PED Agreement - no deviations from model
- ◆ Structural Flood Control PCA
  - ◆ No deviations from model
  - ◆ DE may approve & sign if Federal cost is less than \$50 M
  - ◆ MSC DE may approve & sign if Federal cost is over \$50 M
- ◆ **Note:** ASA(CW) reserves right to sign any politically sensitive agreement



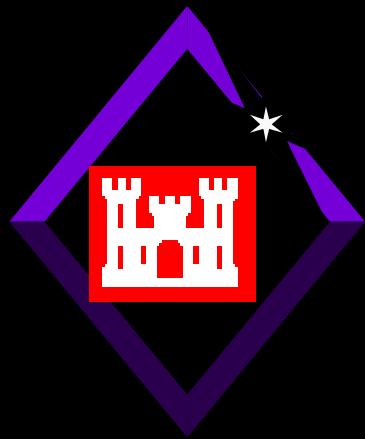
## Delegated Authority Being Requested

- ◆ Design Agreement
  - ◆ No deviations from model
  - ◆ MSC approves deviations from model
- ◆ Commercial navigation PCA
  - ◆ No deviations from model
  - ◆ No limit on Federal cost



## Common PCA Problems

- ◆ Decision document not approved
- ◆ Project description in PCA does not match approved decision document
- ◆ PCA does not match Chief's Report
- ◆ Deviations from model not in accordance
- ◆ Insufficient justification for deviations from model

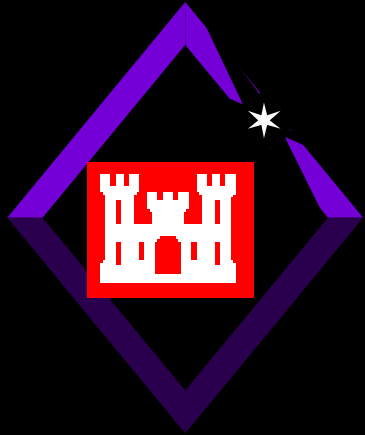


## Common PCA Problems

- ◆ Incomplete NEPA documentation
  - ◆ N/A is not applicable
- ◆ Incorrectly completed funds allocation
- ◆ Poorly defined responsibilities for:
  - ◆ disposal areas
  - ◆ LERR'S
  - ◆ Monitoring/surveillance
  - ◆ Local service facilities



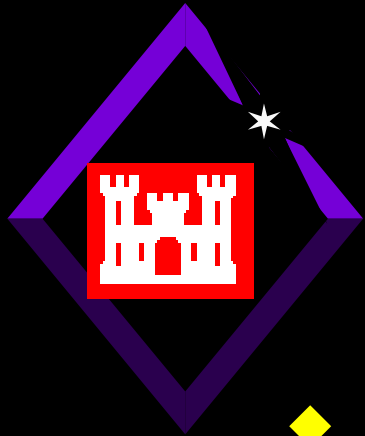
# Common PCA Problems



- ◆ Incomplete financing packages

Must address financing for OMRR&R  
and LERR(D)'S

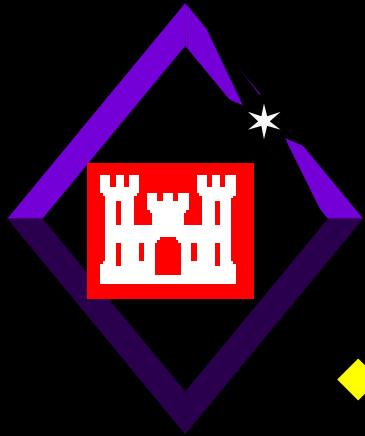
- ◆ Multiple non-Federal sponsors/third  
party agreements



## **PCA Submission to CECW-AR**

### **10 Steps to Success**

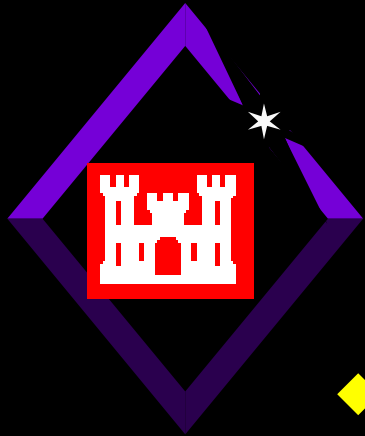
- ◆ Ensure PCA package is complete
- ◆ Do not deviate from model - unless
- ◆ If deviate from model, provide detailed reasons for deviation
- ◆ Ensure draft PCA includes all items of local cooperation identified in decision document and/or Chief's Report



# PCA Submission to CECW-AR

## 10 Steps to Success

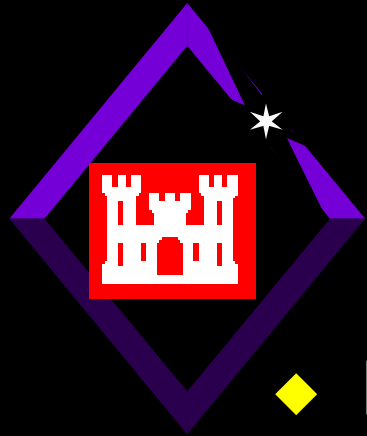
- ◆ Approved decision document has current description of:
  - ◆ Project features
  - ◆ Local service facilities
  - ◆ Disposal areas
  - ◆ Section 104 credits
  - ◆ Any non-Federal sponsor monitoring or other responsibilities
  - ◆ Items of local cooperation



## **PCA Submission to CECW-AR**

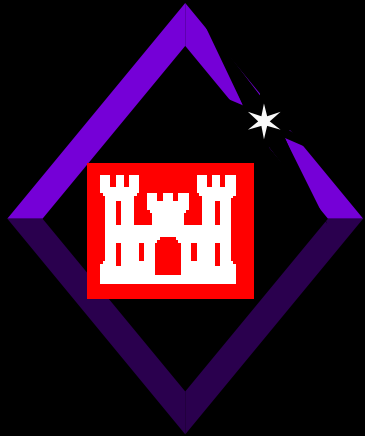
### **10 Steps to Success**

- ◆ Ensure all environmental coordination is complete
- ◆ Financing plan should address all financial responsibilities of the sponsor
  - ◆ Cash
  - ◆ Credits
  - ◆ LERR(D)'S
  - ◆ OMRR&R



## **PCA Submission to CECW-AR 10 Steps to Success**

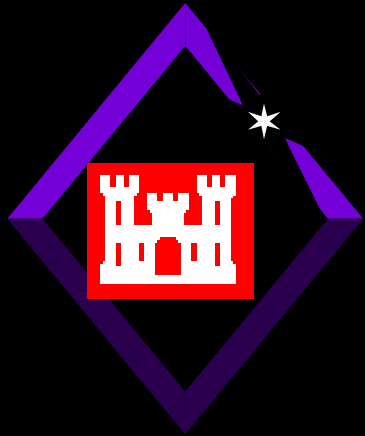
- ◆ District assessment should discuss sponsor's ability to fund all financial responsibilities
  - ◆ Cash
  - ◆ LERR(D)'S
  - ◆ OMRR&R
  - ◆ Vehicle to provide contributions  
(e.g., escrow, letter of credit, etc.)



# **PCA Submission to CECW-AR**

## **10 Steps to Success**

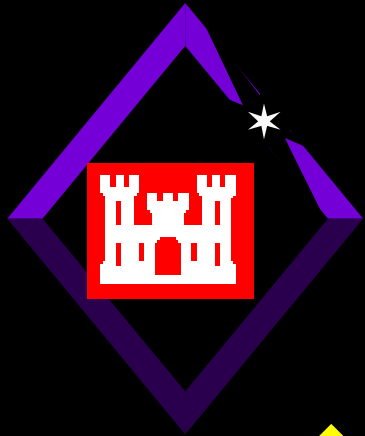
- ◆ Always use latest version of:
  - ◆ Checklist - Policy Hot Page - PCA Page
  - ◆ Model - Office of Counsel Home Page
- ◆ Allow plenty of time in schedule for



## **Requirements for PCA Package Submitted to CECW-AR for Review (6 copies)**

(Continuing Authority Program)

- ◆ Draft PCA
- ◆ Certificate of legal review signed by District Counsel
- ◆ List of deviations from model & reasons for deviations
- ◆ CAP PCA Checklist
- ◆ Letter of Intent from non-Federal sponsor
- ◆ Approved decision document (1 copy)



## **PCA Package Requirements for CECW-AR Review (Specifically Authorized Projects)**

- ◆ **Draft PCA**
- ◆ **Certificate of legal review signed by District Counsel**
- ◆ **List of deviations from appropriate model PCA and detailed reasons for deviations**
- ◆ **PCA Checklist**
- ◆ **Sponsor's financing plan**
- ◆ **District Assessment of sponsor's financial**
- ◆ **Federal/non-Federal funds allocation table**
- ◆ **Signed Chief's Report**
- ◆ **Approved decision document (1 copy)**